

## Heimdal, Monica

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**From:** Livingston, Peggy  
**Sent:** Monday, August 05, 2013 9:52 AM  
**To:** [REDACTED]  
**Cc:** apowers@erresources.com; Susan.Nall@usace.army.mil; Heimdal, Monica  
**Subject:** Proposed Administrative Order on Consent  
**Attachments:** letter mailed 2013-08-01.pdf; AOC mailed 2013-08-01.pdf

Dear Mr. and Mrs. Bianco:

Attached please find pdfs of a letter and a proposed administrative order on consent that were mailed to you on August 1<sup>st</sup>. After you have had a chance to review them, please contact Monica Heimdal of EPA Region 8. Her telephone number and email are 303-312-6359 and [heimdal.monica@epa.gov](mailto:heimdal.monica@epa.gov).

I understand that you have not hired an attorney to represent you on this matter. If you do hire one, would you please give me his or her contact information?

Thank you.

Peggy Livingston  
Senior Enforcement Attorney  
Legal Enforcement Program  
U.S. EPA Region 8  
1595 Wynkoop St.  
Denver, CO 80202  
(303) 312-6858 (phone)  
(303) 312-7202 (fax)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

AUG 01 2013

Ref: 8ENF-W

CERTIFIED MAIL #7009 3410 0000 2592 8635

RETURN RECEIPT REQUESTED

James and Kay Bianco

*[Handwritten signature/initials]*

Re: Administrative Order on Consent

Dear Mr. and Mrs. Bianco:

In its letter to you dated April 8, 2013, the United States Environmental Protection Agency (EPA) indicated that you may have violated section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), by discharging dredged and fill material into the East Inlet, a tributary to Grand Lake, and its adjacent wetlands without authorization by a Clean Water Act permit issued by the United States Army Corps of Engineers. The EPA's letter asked you to contact the EPA within 21 days of receiving the letter if you were interested in negotiating the terms of an Administrative Order on Consent (Consent Order) under which you would take steps to come into compliance with the Clean Water Act.

Although the EPA did not receive a response from you within 21 days of its April 8<sup>th</sup> letter, the EPA was contacted in early July by your consultant, Aleta S. Powers, Environmental Scientist/Principal at ERO Resources Corporation. On July 9<sup>th</sup>, Monica Heimdal and I spoke with Ms. Powers, who indicated that you had been out of the country. On July 11<sup>th</sup>, Ms. Heimdal and I reached Mrs. Bianco by telephone. We asked if you are represented by an attorney concerning this matter. Mrs. Bianco told us that she would ask Mr. Bianco to contact us. Although we did not hear from either of you following that conversation, we understood from subsequent conversations with Ms. Powers you may be interested in negotiating a Consent Order. On July 24<sup>th</sup>, Ms. Heimdal called Mrs. Bianco, who confirmed her interest in reviewing a Consent Order. Therefore, I am enclosing a proposed Consent Order for your consideration.

Under the proposed Consent Order, you would agree to submit a plan to the EPA for restoring the East Inlet and its adjacent wetlands. More details are given in the document itself. Please note that under the Consent Order, you would not admit that you are liable for violating the Clean Water Act. I would encourage you to consult an attorney who is experienced in the Clean Water Act to assist in reviewing the proposed Consent Order.

I would request that you respond to this letter no later than 14 days after you receive it. If neither Ms. Heimdal nor I hear from you within that time, it is possible that the EPA may take additional

enforcement actions, including issuing a unilateral administrative compliance order directing you to submit a plan to restore the waters in question.

Although I do not anticipate a problem obtaining the necessary approvals within the EPA, this Administrative Order on Consent is subject to approval by EPA management.

Please review the proposed Consent Order carefully. If you have any questions, please contact Monica Heimdal, Enforcement Officer, at 303-312-6359. If you are represented by an attorney on this matter, please ask the attorney to contact me at 303-312-6858. Thank you for your cooperation.

Sincerely,

*Margaret J. (Peggy) Livingston*

Margaret J. (Peggy) Livingston  
Senior Enforcement Attorney

Enclosure

cc: Susan Bachini Nall, U.S. Army Corps of Engineers  
Aleta S. Powers, ERO Resources Corporation

The following FINDINGS OF FACT AND OF VIOLATION are made solely by the EPA. In signing this Consent Order, Respondents neither admit nor deny the FINDINGS OF FACT AND OF VIOLATION. As such, and without any admission of liability, Respondents consent to issuance of this Consent Order and agree to abide by all of its conditions. Respondents waive any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondents

may have with respect to any issue of fact or law set forth in this Consent Order, including, but not limited to, any right of judicial review of this Consent Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708. Respondents further agree not to challenge the jurisdiction of the EPA or the FINDINGS OF FACT AND OF VIOLATION below in any proceeding to enforce this Consent Order or in any action under this Consent Order.

#### **V. FINDINGS OF FACT AND OF VIOLATION**

1. Respondents James and Kay Bianco are each an individual with an address of P.O. Box 469, Grand Lake, CO 80447. Respondents reside at 1170 Jordan Road in the Town of Grand Lake.
2. At all relevant times, Respondents have owned, controlled, managed and/or operated property adjacent to the East Inlet of Grand Lake at the Site. The Site includes wetlands that border the East Inlet.
3. The East Inlet is a perennial tributary to Grand Lake, which is navigable-in-fact and a traditional navigable water.
4. Some time between early May and early June of 2011, Respondents or persons acting on their behalf constructed an earthen berm and placed rock riprap along the East Inlet. Respondents or persons acting on their behalf, in conjunction with disturbing and removing vegetation, also graded and filled wetlands adjacent to the East Inlet.
5. The U.S. Army Corps of Engineers (Corps) conducted an inspection of the Site on June 29, 2011, and found that Respondents or persons acting on their behalf had discharged or allowed the discharge of dredged and fill material into the East Inlet and the wetlands referenced in paragraphs 2-4 of Section V of this Consent Order. Specifically, the Corps found that approximately seven truckloads of cobble and small boulder material (about 70 cubic yards) were discharged along approximately 120 linear feet of the north bank of the East Inlet, below its ordinary high water mark. In addition, the Corps found that dredged or fill material had been discharged to approximately 0.17 acre of palustrine scrub-shrub wetlands due to land leveling and the construction of a dirt berm along the north bank of the East Inlet channel.
6. On July 1, 2011, the Corps completed a preliminary jurisdictional determination (JD) documenting that the East Inlet and its abutting wetlands at the Site are waters of the United States. Previously, on October 4, 2007, the Corps issued a memorandum for record that documents its determination that Grand Lake is navigable-in-fact and a traditional navigable water.
7. On July 18, 2011, via a certified mail, return receipt letter, the Corps issued a notice of violation to Respondents for the work performed at the Site and invited Respondents to provide any information that they felt should be considered.
8. On August 8, 2011, Respondents provided a response to the Corps' July 18, 2011, letter requesting that the work that had been done at the Site be authorized by an after-the-fact permit.

9. On September 28, 2011, the Corps referred this case to the EPA for enforcement in accordance with the "Memorandum of Agreement Between the Department of the Army and the Environmental Protection Agency Concerning Federal Enforcement of the Section 404 Program of the Clean Water Act," dated January 19, 1989.
10. The discharges described in paragraph 5 of Section V of this Consent Order resulted in restricting the East Inlet's access to its flood plain and additional adverse impacts to the East Inlet and its adjacent wetlands. The East Inlet and its adjacent wetlands provide several functions and values including water quality maintenance functions for Grand Lake, important aquatic and wildlife habitat, aquatic food chain support, flood storage, erosion protection and aesthetics.
11. The discharges described in paragraph 5 of Section V of this Consent Order were performed using common earthmoving vehicles and equipment, which were operated by or on behalf of Respondents.
12. Respondents are each a "person" within the meaning of section 502(5) of the CWA, 33 U.S.C. § 1362(5).
13. The discharged dredged and fill material referenced in paragraph 5 of Section V of this Consent Order is "dredged material" and "fill material" as defined in 33 C.F.R. § 323.2(c) and 33 C.F.R. § 323.2(e), respectively, and "pollutants" as defined in section 502(6) of the CWA, 33 U.S.C. § 1362(6).
14. The vehicles and equipment referenced in paragraph 11 of Section V of this Consent Order are each a "point source" as defined in section 502(14) of the CWA, 33 U.S.C. § 1362(14).
15. The East Inlet and its adjacent wetlands referenced in this Consent Order are "waters of the United States" as defined in 33 C.F.R. § 328.3(a) and, therefore, "navigable waters" as defined in section 502(7) of the CWA, 33 U.S.C. § 1362(7).
16. The placement of dredged and fill material into the East Inlet and its adjacent wetlands constitutes the "discharge of pollutants" as defined in section 502(12) of the CWA, 33 U.S.C. § 1362(12).
17. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into waters of the United States except as in compliance with, among other things, section 404 of the CWA, 33 U.S.C. § 1344.
18. Section 404 of the CWA, 33 U.S.C. § 1344, sets forth a permitting system authorizing the Secretary of the Army, acting through the Chief of Engineers of the Corps, to issue permits for the discharge of dredged or fill material into navigable waters, which are defined as waters of the United States.
19. According to 33 C.F.R. § 323.3(a), a permit issued by the Corps is required for the discharge of dredged or fill material into waters of the United States, except as provided by 33 C.F.R. § 323.4.

20. Respondents are not and never have been authorized by a permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, to conduct any of the activities described in paragraph 5 of section V of this Consent Order.
21. Respondents' discharges of dredged and fill material at the Site violate section 301(a) of the CWA, 33 U.S.C. § 1311(a). Each discharge of pollutants from a point source by Respondents into waters of the United States without authorization by a permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, constitutes a violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a). Each day the discharges remain in place without the required permits constitutes an additional day of violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a).
22. Restoration and remediation for the adverse impacts to, and the loss of the functions and values of, waters of the United States on the Site can be achieved as a practical matter through commonly used methods of construction, digging, revegetation and best management practices.
23. Activities to be carried out under this Consent Order are remedial, not punitive, and are necessary to achieve the CWA's objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," as specified in section 101(a) of the CWA, 33 U.S.C. § 1251(a). Restoration and remediation are appropriate to address the actual and potential harm to water quality, aquatic habitat and wildlife habitat, as well as other functions and values, caused by Respondents' unpermitted activities.
24. These preceding FINDINGS OF FACT AND OF VIOLATION and the ORDER FOR COMPLIANCE below have been made after consultation and coordination with the Corps' Sacramento District.

#### **VI. ORDER FOR COMPLIANCE**

Based upon the foregoing FINDINGS OF FACT AND OF VIOLATION, and pursuant to the authority vested in the Administrator of the EPA under section 309 of the CWA, 33 U.S.C. § 1319, it is hereby ORDERED and AGREED to by the parties:

1. Respondents shall immediately terminate all discharges of dredged and fill material, now and in the future, into waters of the United States, unless specifically authorized by the Corps under a valid permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344. This prohibition includes all mechanical land clearing, dredging, filling, grading, leveling, installation of utilities, construction and any other activities that result in the discharge of dredged or fill material into waters of the United States.
2. Respondents shall conduct restoration activities for impacts to waters of the United States resulting from the unauthorized discharges of dredged and fill material at the Site in accordance with the schedule and other requirements set forth in this Consent Order.
3. Within 14 calendar days of receipt of this Consent Order, Respondents shall submit to the EPA the name and qualifications, including professional resume and business references, of a

consultant who will prepare a restoration plan (Plan) and supervise all work performed pursuant to the Plan, once it is approved by the EPA.

4. Within 30 calendar days of receipt of this Consent Order, Respondents shall submit to the EPA for review, comment and approval a Plan, prepared by the consultant referenced in paragraph 3 of Section VI of this Consent Order, providing for: (1) the removal of all dredged and fill material that was discharged into the East Inlet and its adjacent wetlands at the Site; and (2) the restoration, to their pre-impact condition and grade, of the East Inlet and its adjacent wetlands that were impacted as a result of Respondents' unauthorized discharges of dredged and fill material. The Plan shall be prepared in accordance with "U.S. Environmental Protection Agency - Region VIII Section 404 Enforcement: General Guidelines for Removal and Restoration Plans," attached hereto as Exhibit A. In addition, the Plan shall include:
  - a. A detailed work plan and schedule for all of the work and activities to be accomplished, as specified in the Plan, including the application for any required permits, providing for completion of all aspects of the restoration and remediation work no later than 45 days after the EPA approves the Plan;
  - b. Grading, planting and monitoring plans, measurable criteria for success of restoration and remediation and provisions for proper disposal of any excess soils or other materials generated during construction and/or restoration and remediation;
  - c. Detailed professional drawings of the restoration and remediation locations, including plan and profile drawings with control elevations for current conditions and proposed conditions; and
  - d. A description of all costs to complete the restoration and remediation work, including the costs of all consultations, permits, construction, monitoring, reporting, etc.
5. The EPA will review the Plan and approve it, approve it with modifications or reject it with comments. If the EPA rejects the Plan, Respondents shall, within 15 calendar days of receipt of the EPA's rejection letter, submit a revised Plan that corrects the deficiencies identified by the EPA.
6. Upon EPA approval of the Plan, Respondents shall conduct restoration and remediation activities for impacts to waters of the United States resulting from the unauthorized discharges of dredged and fill material at the Site.
7. All restoration and remediation activities conducted pursuant to this Consent Order and involving the use of heavy construction equipment shall be undertaken by an equipment operator experienced in stream and wetland restoration. A statement of the equipment operator's qualifications, including professional resume and business references, shall be submitted to the EPA within 14 calendar days of receiving the EPA's written approval of the Plan and prior to commencement of restoration and remediation activities.



8. Respondents must make a timely application for each permit necessary to implement the EPA-approved Plan and for conducting restoration and remediation activities in accordance with the approved Plan, including the schedule specified therein, with all granted permits and with all applicable laws. Respondents must demonstrate that all necessary permits have been granted by providing complete copies of all such permits, and any amendments thereto, to the EPA within seven calendar days of issuance of each permit.
9. This Consent Order is not a permit or an authorization to discharge dredged or fill material, storm water or any other pollutant into waters of the United States. Respondents shall consult with the Corps and the Colorado Department of Public Health and Environment (CDPHE) at the addresses and telephone numbers below to determine if any work to be performed pursuant to this Consent Order requires a permit from the Corps under section 404 of the CWA, 33 U.S.C. § 1344, or from CDPHE under section 402 of the CWA, 33 U.S.C. § 1342. If any such permit is required, Respondents shall obtain such permit(s) and provide a copy or copies to the EPA pursuant to paragraph 8 of Section VI of this Consent Order prior to initiating any work that is to be performed pursuant to this Consent Order.

U.S. Army Corps of Engineers  
Colorado West Regulatory Branch  
400 Rood Avenue, Room 224  
Grand Junction, CO 81501  
Telephone: 970-243-1199

Colorado Department of Public Health and Environment  
Water Quality Control Division  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530  
Telephone: 303-692-3500

10. Respondents shall submit two copies of the Plan, all notifications and related correspondence to:

Monica Heimdal, 8ENF-W  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop St.  
Denver, CO 80202-1129  
Telephone: 303-312-6359  
Facsimile: 303-312-7202

A copy of the Plan also shall be provided to the Corps at the address noted in paragraph 9 of Section VI of this Consent Order.

11. In addition to the notification requirements set forth in paragraph 10 of Section VI of this Consent Order, after issuance of any Corps authorization for restoration and remediation work, Respondents shall submit all notifications and correspondence to the Corps in accordance with the terms and conditions in the Corps permit.

12. All plans (including, but not limited to, the Plan), deliverables, reports, specifications, schedules or attachments required by this Consent Order are, upon approval by the EPA, incorporated into this Consent Order. Any noncompliance with such EPA-approved plans, deliverables, reports, specifications, schedules or attachments shall be deemed a failure to comply with this Consent Order and subject to EPA enforcement.
13. A lease, sublease or transfer of the Site shall not relieve Respondents of any responsibility in this Consent Order unless the EPA, Respondents and the lessee, sublessee or transferee agree in writing to allow the lessee, sublessee or transferee to assume such responsibility. Additionally, at least 30 calendar days prior to such lease, sublease or transfer, Respondents shall notify the EPA regarding the details of the lease, sublease or transfer at the address specified in paragraph 10 of section VI of this Consent Order.
14. Respondents shall allow, or use their best efforts to allow, access by any authorized representatives of the EPA or its contractors, the Corps, CDPHE, the Colorado Division of Wildlife, the Natural Resources Conservation Service and the U.S. Fish and Wildlife Service, upon proper presentation of credentials, to the Site and to all records relevant to this Consent Order for any of the following purposes:
  - a. To inspect and monitor progress of the activities required by this Consent Order;
  - b. To inspect and monitor compliance with this Consent Order; and
  - c. To verify and evaluate data and other information submitted to the EPA.
15. This Consent Order shall in no way limit or otherwise affect the EPA's authority, or the authority of any other governmental agency, to enter the Site, conduct inspections, have access to records, issue notices and orders for enforcement, compliance or abatement purposes or monitor compliance pursuant to any statute, regulation, permit or court order.
16. This Consent Order shall be effective upon the date Respondents receive a fully executed copy of this Consent Order.
17. Issuance of this Consent Order shall not be deemed to be an election by the United States to forego any civil or criminal action to seek penalties, fines or other appropriate relief under the CWA for violations giving rise to this Consent Order.
18. The EPA agrees to submit all notifications and correspondence related to the Consent Order to:

James and Kay Bianco  
P.O. Box 469  
1170 Jordan Road  
Grand Lake, CO 80447
19. Any party hereto may, by notice, change the address to which future notices shall be sent or the identities of the persons designated to receive notices hereunder.

20. If an event causes or may cause delay in the achievement of the requirements of this Consent Order, Respondents shall notify the EPA orally as soon as possible and in writing within ten working days from the date Respondents first knew of such event or should have known of such event by exercise of due diligence, whichever is earlier. Respondents' written notice shall specify the length of the anticipated delay, the cause(s) of the delay, the measures taken or to be taken by Respondents to minimize the delay and a timetable by which those measures will be or have been implemented. Notification to the EPA pursuant to this paragraph of any anticipated delay, by itself, shall not excuse the delay or the obligation of Respondents to comply with requirements and deadlines of this Consent Order, unless the EPA grants in writing an extension of the applicable requirement or deadline.
21. If Respondents demonstrate to the EPA's satisfaction that the delay or anticipated delay has been or will be entirely caused by circumstances beyond Respondents' control (or the control of any of Respondents' agents) that Respondents could not have foreseen and prevented despite due diligence, and that Respondents have taken all reasonable measures to prevent or minimize such delay, the EPA may excuse performance or extend the time for performance of such requirement for a period not to exceed the actual delay resulting from such circumstances. The EPA's determination on these matters shall be made as soon as possible and in writing within ten working days after the receipt of Respondents' written notification of the event. The parties agree that changed economic circumstances shall not be considered circumstances beyond the control of Respondents.
22. Respondents understand and acknowledge the following:
- a. Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as adjusted for inflation by 40 C.F.R. part 19, authorizes civil penalties of up to \$37,500 per day for each violation of an order issued by the EPA under section 309 of the CWA, 33 U.S.C. § 1319.
  - b. Compliance with the terms and conditions of this Consent Order shall not be construed to relieve Respondents of their obligations to comply with any applicable Federal, state or local law or regulation.
  - c. Failure by Respondents to complete the tasks described herein in the manner and time frame specified pursuant to this Consent Order may subject Respondents to a civil action under section 309 of the CWA, 33 U.S.C. § 1319, for violation of this Consent Order.

BY: \_\_\_\_\_  
James Bianco

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Kay Bianco

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice  
U.S. Environmental Protection Agency, Region 8

## **Exhibit A**

U. S. ENVIRONMENTAL PROTECTION AGENCY - REGION VIII

SECTION 404 ENFORCEMENT:

GENERAL GUIDELINES FOR REMOVAL AND RESTORATION PLANS

The following guidelines serve as general specifications for preparing removal and restoration plans to remediate the unpermitted filling of wetlands. As environmental conditions vary at every site, precise specifications will depend upon the environmental conditions peculiar to the site in question. The size of the wetland area to be restored, its biological and physical characteristics, and the level of disturbance the wetland has experienced will further define the scope and complexity of the restoration plan. In most cases, the types of information listed below represent the minimum required to formulate an acceptable removal and restoration plan. When these guidelines are incorporated into an EPA Administrative Order, the recipient of the Order should obtain the approval of EPA's technical representative on the case before departing from the general specifications outlined below.

I. Existing Physical Conditions

- A. A surveyed site plan depicting property boundaries, streets, buildings, waterbodies (with ordinary high water line indicated), wetlands, FEMA 100-year floodplain (if applicable), areas of unpermitted fill, elevation contours, and other ground surface features at a scale no greater than 1 inch = 40 feet. This plan shall include a cross-section view of the site which shows soil depths, fill depths, and average depth to groundwater across the site.
- B. A narrative description of existing physical conditions, including the area of the site; area of unpermitted fill; existing wetlands (including the types of vegetation); the soil types present (including the types of unpermitted fill present); the hydrologic regime of the site; and other relevant information.

#### IV. Monitoring/Measures of Success

- A. Normally, monitoring shall be performed midway through and near the end of the first and second growing seasons, then annually near the end of each successive growing season for the duration of the required monitoring period. Monitoring shall be performed for a period of three to five years, depending upon the scope and complexity of the remedial efforts required.
- B. A monitoring plan shall incorporate a simple statistical approach to assessing relative success or failure of restoration efforts (e.g., transects with sampling stations for measuring parameters such as percent areal cover in each vegetative stratum). A permanent photographic record shall be included as part of the monitoring plan.
- C. Depending upon the scope and complexity of the remedial efforts, general criteria to measure success shall be determined by EPA. These criteria shall be directly related to reestablishing the structural components of the aquatic ecosystem being restored. A general provision shall be included to allow for corrective action to be taken, at the direction of EPA, should monitoring show that criteria for success are not being met.
- D. A report shall be prepared and submitted after each monitoring event which describes the environmental conditions at the site and assesses relative success or failure of restoration efforts. This report shall include photographic evidence as well. This report shall identify any problems discovered and recommend appropriate corrective action to ensure the success of restoration.

#### V. Inspections

- A. The plan shall provide for inspections by EPA personnel after installation of all sedimentation and erosion control structures, after completion of grading activities, after completion of initial planting/seeding activities, and after monitoring indicates that the criteria for success have been attained.

## II. Proposed Physical Conditions

- A. Using the site plan described in I.A. as a base, show the exact areas where remedial activities will occur (e.g., removal of fill, replacing dredged material into ditches, etc.). Indicate proposed finished grades, expected ordinary high water elevations, the location of proposed plantings/seedings, and the location of all sediment and erosion control structures (e.g., hay bales, silt screens, etc.). This plan shall include a cross-section view of the site which shows proposed soil depths and average depth to groundwater across the site.
- B. Provide a narrative description of the remedial work to occur, including the methods and equipment to be employed; how the equipment will gain access to the site to perform the work; the location of the ultimate disposal site for any removed fill; how the work will progress across the site; a listing of the plant species to be seeded/planted at the site; the sources of the plant material (note: as a rule, transplanting of plant stock will not be permitted); the planting method(s) and scheme (i.e., physical layout of how plant material will be installed); any methods to be used to minimize adverse impacts while remedial work is underway; the expected hydrologic regime of the site in its restored condition; and other relevant information.
- C. Delineate the area(s) on the site to be restored by installation of flagging, sedimentation and erosion control structures, or other appropriate method; this delineation shall represent the limit of construction activities such that no work shall occur beyond these boundaries.

## III. Actual Restored Physical Conditions

- A. Using the site plan described in I.A. as a base, show the actual physical conditions at the site at the completion of grading activities (i.e., an "as-built" plan), including actual finished grades and all pertinent ground surface features. This plan shall include a cross-section view of the site which shows actual soil depths and average depth to groundwater across the site. This as-built plan shall be prepared and submitted prior to planting/seedling activities.



VI. Schedule

- A. A comprehensive schedule integrating all removal, restoration, inspection, and monitoring activities as well as report/product submissions shall be included.

## Heimdal, Monica

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**From:** Aldinger, Dayle  
**Sent:** Monday, August 05, 2013 9:20 AM  
**To:** Heimdal, Monica  
**Cc:** Livingston, Peggy  
**Subject:** Bianco pdf attached  
**Attachments:** letter to Bianco.pdf; AO to Bianco.pdf

Hi Monica,

Peggy asked me to send you the two enclosed pdf documents related to Bianco's case on Friday when they were mailed out.

My computer was not working much of the day, so here are your attachments.

Please let me know if there is anything else I can do to assist.

Thanks,  
*Dayle Aldinger*  
303-312-6911, work phone